

Mandate of the Special Rapporteur on the situation of human rights defenders

Ref.: AL RUS 14/2022
(Please use this reference in your reply)

7 September 2022

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolution 43/16.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the alleged criminalisation of Ms. **Izabella Evloeva** and harassment of her parents in connection with her legitimate human rights work and the exercise of the freedom of expression.

Ms. Izabella Evloeva is a woman human rights defender and journalist from the Republic of Ingushetia currently residing abroad. She is the chief editor of Fortanga, an independent media outlet that covers human rights violations in Russia and particularly the Republic of Ingushetia. She also writes for her telegram-based blog "Not a Woman, but a Journalist" and uses this platform to cover human rights violations by the Russian authorities, including those committed in Ukraine.

We previously wrote to your Excellency's Government regarding article 207.3 of the Criminal Code on 1 July 2022 (AL RUS 9/2022) and thank your Excellency's Government for the reply dated 23 August 2022. However, we remain concerned, given the allegations below. Similar concerns regarding the impact of article 207.3 were voiced in the press release issued on 13 July 2022¹.

According to the information received:

A. Criminal cases against Ms. Izabella Evloeva

The Investigative Committee of Russia for the Republic of Ingushetia allegedly opened three criminal cases against Ms. Izabella Evloeva under paragraph 1 of article 207.3 of the Criminal Code, referring to "public dissemination, under the guise of reliable reports, of knowingly false information containing data on the use of the armed forces of the Russian Federation".

The first criminal case was reportedly opened on 4 April 2022 for the following publications made between 5 to 8 March 2022 in the Telegram channel "Not a Woman, but a Journalist":

- Publication dated 5 March 2022 announcing that, as Russian authorities restricted freedom of expression about the events in Ukraine,

¹ The adoption and enforcement of the law was also the subject of the joint press release (<https://www.ohchr.org/en/press-releases/2022/03/russia-un-experts-alarmed-choking-information-clampdown>) and public statement (<https://www.ohchr.org/en/press-releases/2022/07/russia-un-experts-condemn-civil-society-shutdown>) of the Special Procedures.

Ms. Evloeva would be publishing relevant information in the channel, including information about the Ingush members of the military, the captured and the dead;

- Publication dated 5 March 2022 about an allegedly captured Ingush soldier and other captured soldiers, as well as an update about the allegedly killed and wounded members of the Russian army;
- Publication dated 8 March 2022 calling Ingush people and other people whose relatives serve in the Russian army to consider not participating in the war;
- Publication dated 8 March 2022 (subsequently deleted) allegedly containing the list of killed and wounded residents of the Republic of Ingushetia.

The second criminal case was reportedly opened on 26 April 2022 for a 3 April 2022 publication on the same Telegram channel. The publication contained photos from Bucha, Ukraine and a comment that the Russian army allegedly raped women and girls, killed civilians, looted and pillaged villages in Ukraine, and that the events in Ukraine reminded Ms. Evloeva of the Second Chechen War.

On 10 May 2022, the Sunzhensky District Investigation Department reportedly charged Ms. Izabella Evloeva in relation to the publications listed above. The notice to her defence lawyer, who had a right to be present, was allegedly sent almost a month later.

The third criminal case was reportedly initiated on 27 July 2022 for publications on the Telegram channel Fortanga made on 27 June 2022. Detailed information about the third case is unavailable. The publications concerned were allegedly about the losses of the Russian army in Ukraine and the alleged rocket attack on a shopping mall in Kremenchuk, Ukraine.

All three cases have reportedly been combined into one proceeding investigated by the Sunzhensky District Investigation Department. The Russian authorities reportedly issued a country-wide search warrant for Ms. Izabella Evloeva and there have been reports about the law enforcement's plans to place her on the international wanted list.

B. Harassment of Ms. Izabella Evloeva's family

In parallel with the prosecution of Ms. Izabella Evloeva, her family members living in the Republic of Ingushetia have reportedly been harassed.

On 7 June 2022, authorities reportedly searched her parents' house in Sunzha, where she reportedly had not lived since 1998. According to reports, the search lasted for four hours and was conducted without a protocol. Moreover, her parents' phones were reportedly seized, and she was reportedly unable to get in touch with them for the entire day.

Shortly afterwards, the law enforcement officers allegedly informed Ms. Evloeva through a relative that they would be 'forced' to persecute her parents if she did not stop publicly expressing her views in the media and on social media.

The message from the law enforcement agencies was reportedly conveyed in confidence and she was not supposed to disclose it. However, Ms. Evloeva publicised it. As a result, law enforcement officials reportedly contacted her father and pressured him to demand his daughter to remove the material.

On 17 June 2022, Ms. Izabella Evloeva's mother was reportedly summoned for questioning by the investigator. The mother reportedly refused to testify, exercising her constitutional right not to testify against herself or her close relatives. In response, the investigator reportedly warned her of a criminal liability shall she refuse to testify.

Without wishing to prejudge the accuracy of the information received, I wish to express concern as to the alleged criminalisation of Ms. Izabella Evloeva and harassment of her parents, which appear to be related to her legitimate human rights work and the exercise of the freedom of expression.

I also express my grave concern regarding the continuous use of article 207.3 of the Criminal Code of the Russian Federation to restrict the freedom of expression regarding the war in Ukraine. I remain concerned at the chilling effect it may have on human rights defenders and the freedom of expression.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the legal and factual basis for the criminal cases against Ms. Izabella Evloeva and explain how these are compatible with your Excellency's Government's international human rights obligations.
3. Please indicate what measures have been taken to ensure that human rights defenders in Russia, including those covering the war in Ukraine and expressing their anti-war stance, can exercise their right to freedom of expression and carry out their legitimate work freely and in a safe and enabling environment without acts of intimidation and harassment against them, their family members and loved ones.

I would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of my highest consideration.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw the attention of your Excellency's Government to the following human rights standards.

I would like to refer your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights ("ICCPR"), ratified by the Russian Federation on 16 October 1973, which guarantees the right to freedom of opinion and expression.

The right to freedom of expression includes the right to seek, receive, and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include commentary on one's own and on public affairs, discussion of human rights, and journalism (paragraph 11). All forms of expression and means of their dissemination are protected (paragraph 12).

I would like to remind your Excellency's Government that any restrictions to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 19 (3) of the ICCPR. Under these standards, restrictions must be provided for by law and conform to the strict tests of necessity and proportionality. Article 19 (3) may never be invoked to justify the muzzling of any advocacy of human rights (paragraph 23). Nor, under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19 (Id.).

I would also like to refer your Excellency's Government to articles 14 and 17 of the ICCPR, which provide for the right to a fair trial and the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence.

I would like to also refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba). According to principle 16 (a), Governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference. Moreover, according to principle 21, it is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.

Furthermore, I would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, adopted on 9 December 1998 (also known as the UN Declaration on Human Rights Defenders). Articles 1 and

2 of the Declaration state that everyone has the right to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Likewise, I would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

Article 6 (a), (b) and (c), which provides for the right to know, seek, obtain, receive, and hold information about all human rights and fundamental freedoms; to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters;

Article 9 (1), which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights, everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of those rights;

Article 12 (2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure, or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, and acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Finally, I would like to refer your Excellency's Government to the Special Rapporteur on the situation of human rights defenders' report on the situation of women human rights defenders (A/HRC/40/60). The Special Rapporteur specifically noted the targeting of family members and loved ones of women defenders – in particular, their children, partners, relatives, and close friends – as one of the key gendered risks faced by women human rights defenders (paragraph 41).